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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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			3609	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/782,515	MAGUIRE ET AL.	
	Examiner	Art Unit	
	Branon C. Painter	3609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/06/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-19, drawn to an anchor, classified in class 52, subclass 298.
 - II. Claim 20, drawn to a key, classified in class 81, subclass 461.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions anchor (group I) and key (group II) are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination group II (key) has separate utility such as assisting in the removal of a tank cap on a boat. See MPEP § 806.05(d).
4. The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

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5. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.
6. During a telephone conversation with Shane Coleman on 06/27/07 a provisional election was made without traverse to prosecute the invention of an anchor, claims 1-19. Affirmation of this election must be made by applicant in replying to this Office action. Claim 20 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Information Disclosure Statement

8. The information disclosure statement (IDS) submitted on 12/06/04 was filed after the mailing date of the non-provisional application on 2/11/04. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

9. The disclosure is objected to because of the following informalities:
- a. Page 4, line 17, "second first end." For the purpose of this examination, the examiner presumes this should read "second end."
 - b. Page 5, lines 17-18, and page 6, lines 10-11: descriptions of Figs. 9 and 21, respectively, are missing.
 - c. Page 9, line 15, "with the wedge portion." For the purpose of this examination, the examiner presumes this should read "without the wedge portion."
 - d. Page 15, line 1, "body 1. prevents." For the purpose of this examination, the examiner presumes this should read "body 1. Anti-rotation tab 50 prevents."
 - e. Page 15, line 15, "20 and 22." For the purpose of this examination, the examiner presumes this should read "20 and 21."
 - f. Page 17, line 6, "flat portion 212." For the purpose of this examination, the examiner presumes this should read "flat portion 210."
 - g. Appropriate correction is required for all the preceding objections.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention. To the examiner's best understanding, ACME threads are an industry standard and thus cannot be claimed, as industry standards are ephemeral and may not carry the same meaning throughout the life of the patent. For the purpose of this examination, the examiner considers any threads to meet the limitations of claims 1 and 7.

Claim Rejections - 35 USC § 102

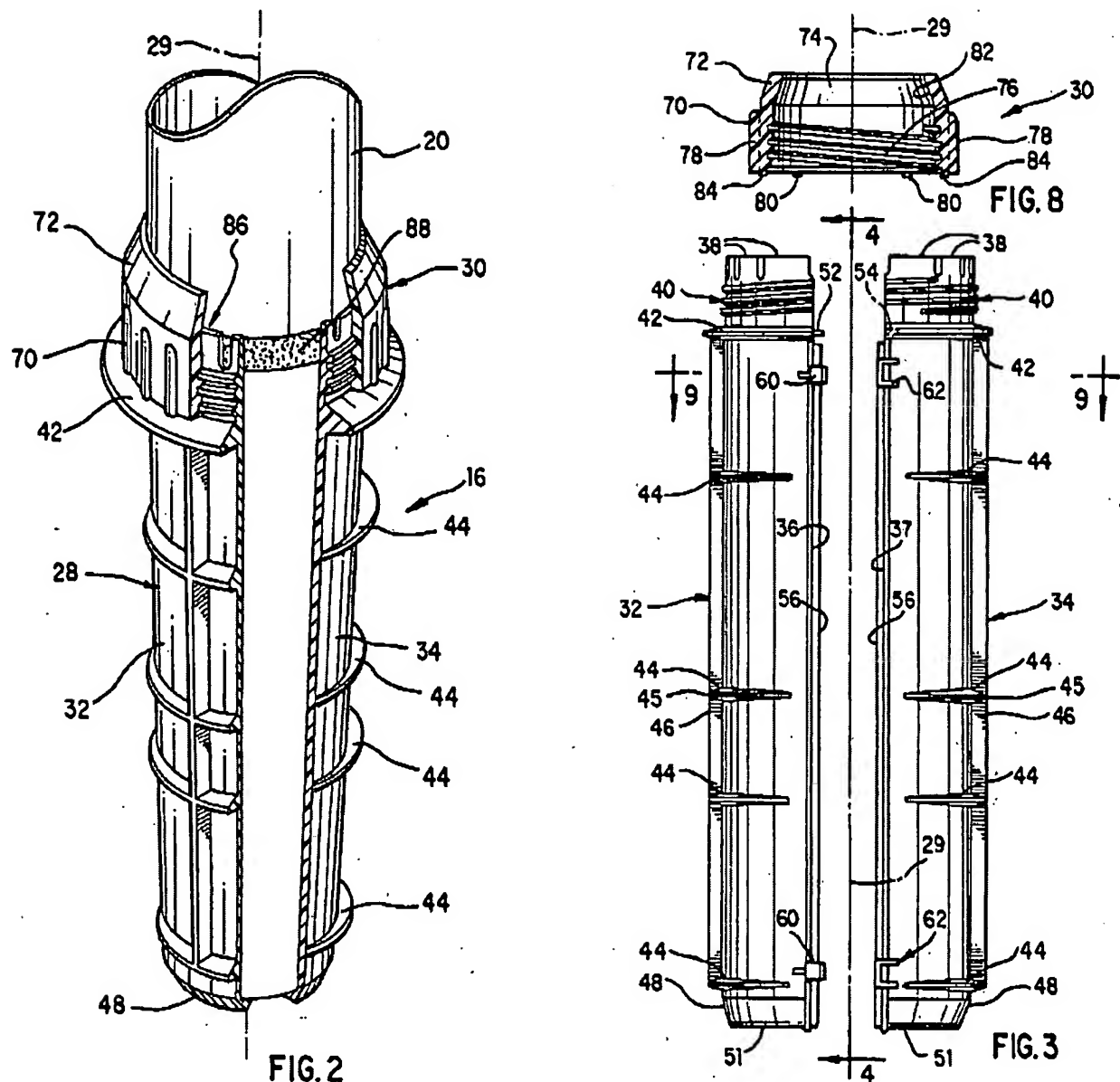
12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1, 5, 8, 9, and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Fitzsimmons et al. (U.S. Patent No. 5,571,229).
14. Regarding claim 1, Fitzsimmons et al. discloses a ground sleeve having all of the applicant's claimed structure, including:
- a. "a body defining a cavity, wherein the body has top and bottom ends..." ("ground sleeve body" 28 with top end "shoulder" 42 and bottom end "inwardly tapered portion" 48, Fig. 3).
 - b. "...a wedge portion that connects to the body using threads, wherein the wedge portion encircles a support member received in the cavity..." ("cap" 30, Fig. 8 encircling "support pole" 20, Fig. 2).

- c. "...a compression ring disposed in the cavity, wherein the compression ring expands and contracts in response to movement of the wedge portion relative to the body..." ("ground sleeve body" 28 from "shoulder" 42 to "tabs" 38, Fig. 3).
- d. "...wherein the body and web portion are corrosion resistant." ("Further, it is considered within the scope of this invention to utilize any sufficient strength weather-resistant and non-corrosive material to form the cap 30 and/or the sleeve body 28," column 6, lines 48-51).
- e. The examiner notes that the upper threaded portion of ground sleeve body 28 (mapped onto the wedge portion) is disposed inward towards the support member and into the cavity when engaged with cap 30.



Reproduced from U.S. Patent No. 5,571,229

15. Regarding claim 5, Fitzsimmons et al. discloses a wedge portion with an upper surface substantially flush with the upper surface of the anchor body when engaging the support member (top of "cap" 30 and "tabs" 38, Fig. 2).

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16. Regarding claim 8, Fitzsimmons et al. discloses a means for preventing the body from rotating relative to a ground surface in which the anchor is mounted ("longitudinal flanges" 46, Fig. 3).
17. Regarding claim 9, Fitzsimmons et al. discloses an anti-rotation tab ("longitudinal flanges" 46, Fig. 3).
18. Regarding claim 12, Fitzsimmons et al. discloses an anti-rotation tab connected approximately midway between the top and bottom ends of the body ("longitudinal flanges" 46, Fig. 3).
19. Regarding claim 13, Fitzsimmons et al. discloses a bottom plate connected to the bottom end of the body ("transverse end wall" 51, Fig. 3) and a spacer inside the cavity at a connection between the bottom plate and bottom end of the body, wherein the spacer spaces the support member away from the bottom portion when the support member is received ("inner race surface" 50, Fig. 4).
20. Regarding claim 14, Fitzsimmons et al. discloses a spacer that comprises a chamfered bottom corner that contacts a lower end of the support member ("inner race surface" 50, Fig. 4).
21. Regarding claim 15, Fitzsimmons et al. discloses a spacer disposed in the cavity, wherein the spacer abuts the support member and spaces it away from other portions of the body ("inner race surface" 50, Fig. 4).
22. Regarding claim 16, Fitzsimmons et al. discloses means for receiving the support member ("ground sleeve body" 28 with top end "shoulder" 42 and bottom end "inwardly tapered portion" 48, Fig. 3); means for releasably securing the support

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member by compressing a compression ring around the support member in response to a torsional force exerted on the means for receiving ("ground sleeve body" 28 from "shoulder" 42 to "tabs" 38, Fig. 3); means for preventing the anchor from moving relative to the ground surface in which the support member is positioned ("longitudinal flanges" 46, Fig. 3).

23. Regarding claim 17, Fitzsimmons et al. discloses means for centering a lower end of the support member ("inner race surface" 50, Fig. 4).

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

26. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzsimmons et al. (U.S. Patent No. 5,571,229).

27. Regarding claim 2:

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- a. Fitzsimmons et al. discloses a ground sleeve as set forth above [claim 1].
- b. Fitzsimmons et al. does not expressly disclose the body and wedge portions of the ground sleeve are made of stainless steel.
- c. Fitzsimmons et al. discloses making the claimed invention from a non-corrosive material, but fails to specify that the material used could be stainless steel. The examiner takes Official Notice that it is well-known to those with ordinary skill in the art that stainless steel is a non-corrosive material and thus falls within the disclosure of Fitzsimmons et al.
- d. The examiner further notes that while, in this case, the ground sleeve of Fitzsimmons et al. is used to anchor a basketball pole, it has structure that is equally capable of anchoring any number of poles or posts, including those for swimming pool components.

28. Regarding claim 6:

- a. Fitzsimmons et al. discloses a ground sleeve as set forth above [claim 1].
- b. Fitzsimmons et al. does not expressly disclose that the cavity has a diameter in the range of 1.4 – 1.6 inches.
- c. Fitzsimmons et al. discloses the claimed invention except for a cavity with diameter of 1.4 – 1.6 inches. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the diameter of the cavity according to the size of the support member being inserted into the cavity, since it has been held that where the general

conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *MPEP 2144.05*.

29. Claims 3, 4, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzsimmons et al. (U.S. Patent No. 5,571,229) in view of Johnson (U.S. Patent No. 3,685,237).

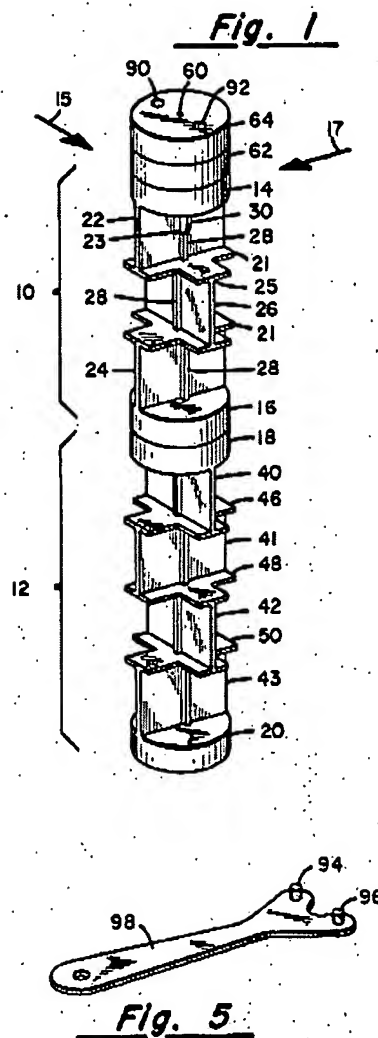
30. Regarding claims 3 and 4:

- a. Fitzsimmons et al. discloses a ground sleeve as set forth above [claim 1].
- b. Fitzsimmons et al. does not expressly disclose a wedge portion with holes on the upper surface to receive pins on a key used for tightening [claim 3] or that the upper surface of the wedge has at least three holes, with two holes disposed opposite each other [claim 4].
- c. Johnson discloses an upper surface with holes for receiving pins on a key used for tightening (top surface with "holes" 90 and 92, Figs. 1 and 5) [claim 3], and that two of the holes are disposed opposite each other ("holes" 90 and 92, Fig. 1) [claim 4]. Adding holes for use with a tightening element as taught by Johnson allows the wedge member to be secured more tightly than by hand.
- d. Fitzsimmons et al. in view of Johnson discloses the claimed invention except for an upper surface contains at least three holes instead of only two [claim 4]. It would have been obvious to one having ordinary skill in the art to add a third hole to the outer surface, since it has been held that mere duplication of

the essential working parts of a device involves only routine skill in the art.

St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.

- e. Fitzsimmons et al. and Johnson are analogous art because both are from the field of endeavor of ground-inserted stands.
- f. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the wedge portion of Fitzsimmons et al. by adding holes as taught by Johnson, in order to allow for the use of a tool to make a tighter, stronger connection between the wedge and body member.



Reproduced from U.S. Patent No. 3,685,237

31. Regarding claim 19:

- a. Fitzsimmons et al. discloses a ground sleeve as set forth above in claim 1.
- b. Fitzsimmons et al. does not expressly disclose that the upper surface of the wedge portion has a plurality of holes that receive complementary pins on a key used to tighten the connection.

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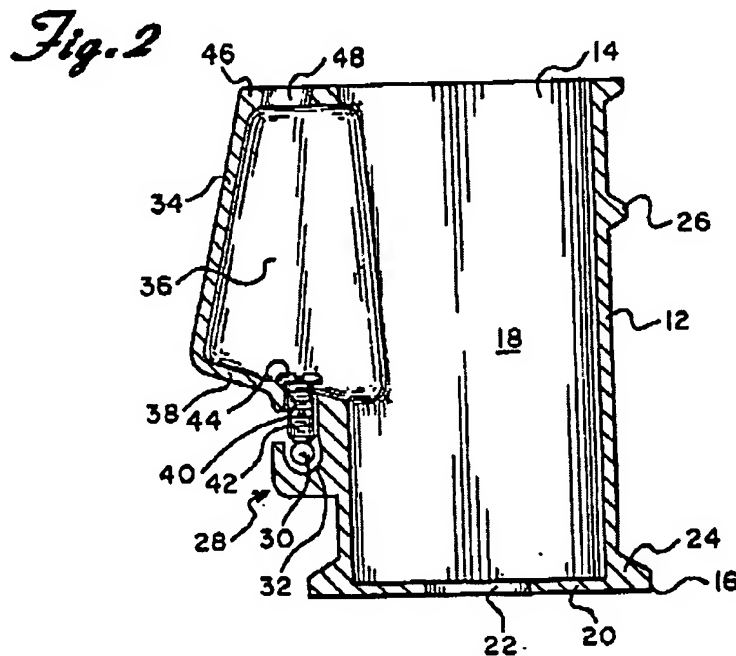
- c. Johnson discloses an upper surface with holes for receiving pins on a key used for tightening (top surface with "holes" 90 and 92, Figs. 1 and 5).

32. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzsimmons et al. (U.S. Patent No. 5,571,229) in view of Jones (U.S. Patent No. 6,684,588).

- a. Fitzsimmons et al. discloses a ground sleeve as set forth above in claims 1 and 9.
- b. Fitzsimmons et al. does not expressly disclose an electrical grounding means on the anti-rotation tab [claim 10] comprising a ground screw [claim 11].
- c. Jones discloses an electrical grounding means attached to an anti-rotation tab that utilizes a ground screw (tab "clamp" 28 with "conductor" 30 and "screw" 42, Fig. 2) [claims 10 and 11]. Adding a grounding screw to the anti-rotation tab as taught by Jones allows the sleeve and any metallic structures it touches to be electrically grounded as a precautionary measure against lightning strikes or other causes of voltage gradients.
- d. The examiner further notes motivation for combining the references as set forth in Jones: "Codes or regulations in many communities require that all metallic structural parts and fittings of a swimming pool such as metallic parts of the pool structure...be bonded or electrically interconnected in order to eliminate voltage gradients in the pool area" (column 1, lines 20-26).
- e. Fitzsimmons et al. and Jones are analogous art because both are from the field of endeavor of socket anchors.

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- f. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the anti-rotation tab of Fitzsimmons et al. by adding an electrical grounding means, including a screw, as taught by Jones, in order to electrically ground the support member and adhere to swimming pool regulations.



Reproduced from U.S. Patent No. 6,684,588

33. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzsimmons et al. (U.S. Patent No. 5,571,229) in view of Design News ("Product News; Latest and Greatest Offerings in the Engineering Marketplace." Design News 54.2 (1999): 99.).
- a. Fitzsimmons et al. discloses a ground sleeve as set forth above in claim 16, and further including: means for receiving that engages the means for

- securing via threads ("threaded portions" 40 and 76, Figs. 3 and 8, respectively).
- b. Fitzsimmons et al. does not expressly disclose that the means for receiving and the means for securing are both formed from stainless steel, or means for preventing permanent bonding at the threads.
 - c. Design News discloses fasteners that "are manufactured from high-strength, gall-resistant Camtronic material, and feature corrosion-resistance equal to stainless steel...The Camtronic fasteners overcome the tendency to gall and seize, which can occur when fastening into stainless steel or aluminum." The Camtronic material is disclosed as having properties consistent with those of stainless steel, and thus meets the claimed limitation that the material used be "a stainless steel." Constructing the ground sleeve threads from the Camtronic material as taught by Design News prevents seizing or bonding of the thread materials.
 - d. Fitzsimmons et al. and Design News are analogous art because both are from the field of endeavor of fastening means.
 - e. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the ground sleeve of Fitzsimmons et al. by constructing it with Camtronic material as taught by Design News in order to prevent seizing or bonding of the threads.

Conclusion

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34. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Branon C. Painter whose telephone number is (571) 270-3110. The examiner can normally be reached on Mon-Fri 7:30AM-5:00PM, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Victor Batson

Supervisory Patent Examiner
Art Unit 3609

Branon Painter
07/02/07